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In re Application of :
DEZSO et al. :
Application No.: 10/018,639 : DECISION
PCT No.: PCT/EP01/04776 :
Int. Filing Date: 27 April 2001 :
Priority Date: 03 May 2000 :
Attorney's Docket No.: 442-134 PCT/US :
For: CONNECTING DEVICE FOR FLUIDS :

This decision is in response to applicant's "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR § 1.181" filed 15 September 2004.

BACKGROUND

On 27 April 2001, applicant filed international application PCT/EP01/04776, which designated the United States and claimed a priority date of 03 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 November 2001. The twenty-month period for paying the basic national fee in the United States expires at midnight on 03 January 2002.

On 19 December 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 01 March 2004, the DO/EO/US mailed a NOTICE OF ABANDONMENT indicating that the application was abandoned for failure to timely respond to the Notification mailed 06 February 2002.

On 15 March 2004, applicants filed the instant "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT-OFFICE ACTION NOT RECEIVED", which was accompanied by, *inter alia*, a declaration of inventors, an incoming mail log list from 06 February 2002 to 08 March 2002, a computer generated docket page for Hoffmann & Baron File

No. 442-134 PCT/US, and a hand-written docket sheet for 06 April 2002.

On 23 August 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.181 for failure to provide a statement by the practitioner that the Office action was not received by the practitioner. The decision also noted that the declaration of inventors filed 15 March 2004 was not in compliance with 37 CFR 1.497(a)-(b) because the international application listed the first named inventor as Dezs Ranko while the declaration of inventors filed 15 March 2004 listed the first named inventor as Dezso Ranko.

On 15 September 2004, applicants submitted the instant "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR § 1.181".

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

As noted in the decision mailed 23 August 2004, items (2) and (3) have been met.

As to (1), practitioner has provided the required statement in the submission filed 15 September 2004.

Declaration of Inventors

Regarding the difference in names of the first-named inventor in the international application and the declaration of inventors, the response filed 15 September 2004 indicates that the correct name of the first named inventor is **Ranko Dezso** (rather than Dezso Ranko as suggested in the decision mailed 23 August 2004) as indicated in the declaration of inventors filed 15 March 2004 rather than Dezs Ranko as indicated in the international application. The response explains that the international application contained an incorrect spelling concerning the name of Mr. Dezso and transposed Mr. Dezso's first and last names.

Applicants' explanation of the difference in the name of Mr. Dezso is accepted and noted for the record.

As to the name of the second-named inventor, applicant has not provided an explanation as to why the declaration of inventors filed 15 March 2004 indicates the name as Jozsef Istvan while the international application indicates the name as Istvan Jozsef. However, it has been

construed that the correct name of the inventor is Jozsef Istvan and that the international application transposed Mr. Istvan's first and last names. If this interpretation of the correct name of the inventor and/or the reason why this is the correct name of the inventor are/is incorrect, applicant is required to notify the Office of PCT Legal Affairs *immediately*.

The response filed 15 September 2004 is a proper reply to the decision mailed 23 August 2004. The declaration of inventors filed 15 March 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including (1) correction of the applicant's name in PALM from Ranko, Dezs to **DEZSO, Ranko** and indicating the second-named inventor as **ISTVAN, Jozsef** and (2) according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **15 March 2004**.



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